

**REMARKS**

Applicants respectfully request reconsideration of their application for at least the reasons set forth below.

Claims 1-5 and 8-23 are pending in the application.

Claims 1-5, 8, 9, 15, 16, and 19-23 stand rejected under § 103 as unpatentable over Akerfeldt in view of Kensey.

The applicants respectfully submit that one of skill in the art at the time the invention was made would not have combined Akerfeldt and Kensey in the manner set forth in the Office Action for at least the following reasons.

At the outset, it is noted that Akerfeldt and Kensey take different approaches to solving the problem of sealing a tissue puncture. As discussed on page 6, lines 29 and 30, of Akerfeldt and as shown in Figs. 1 and 2, Akerfeldt closes the blood vessel by actually sealing the blood vessel by providing an inner member 2 which is in contact with the inner wall of the blood vessel and an outer member 3 which is in contact with an outer wall of the blood vessel.

In Kensey, member 38 is merely an anchoring member which retains the rest of the Kensey device in place. Kensey calls member 38 an “anchoring member” throughout its disclosure. Because member 38 must fit inside a tube which in turn must fit inside the puncture as shown in Figure 1, the width of anchoring member 38 is necessarily smaller than the width of the puncture hole and thus anchoring member 38 does not provide a sealing function. Instead, as shown for example in Fig. 2 and especially Fig. 5 of Kensey, Kensey closes the puncture by basically providing a wad of collagen material 36 (36 is labeled in Fig. 2 but not in Fig. 5) which fills up a substantial portion of the incision canal in the tissue outside the puncture.

A skilled person would not have combined teachings from two such completely different approaches.

With respect to the text in the first full paragraph of col. 9 of Kensey, it is respectfully submitted that this rather casual remark should not be given too much weight. This statement says that “any other biologically active ingredient” can be provided on various members and introduced into the body and potentially introduced into the blood stream. Someone of skill would not take this statement too seriously because the reference to “any other biologically active ingredient” indicates that even biologically active ingredients which may be harmful can be introduced into the body.

In addition, as discussed in the first paragraph under “Detailed description of the preferred embodiments” in the present specification, the present invention is directed to preventing or reducing secondary bleeding, also referred to as oozing, into an incision canal such as canal 7 in Figure 1. However, nothing in the prior art is cited as addressing the problem of secondary bleeding. Akerfeldt is directed primarily to an improved tool 101 or 102 which have a mechanism to automatically bring inner and outer members together. Kensey is directed primarily to a use of a mesh material 52 to reinforce scar tissue, as indicated by the Objects of the Invention of Kensey.

Furthermore, as discussed above, and as shown, for example, in Fig. 5 of Kensey, Kensey already has a large wad of collagen (which is a haemostatic material) taking up a large portion of the incision canal and there does not appear to be any benefit from adding further haemostatic agents.

It is thus respectfully submitted that these claims 1-5, 8, 9, 15, 16, and 19-23 are patentable.

Claims 1-4, 6, 8, and 10-23 are rejected under § 103 as being unpatentable over Akerfeldt in view of Torgerson.

It is respectfully submitted that the claimed invention would not have been obvious for at least the following reasons.

The bottom of page 4 of the Office Action states that “[i]t would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of

Akerfeldt by substituting the fiber disclosed in Torgerson for the elongated member 10 for purposes such as encouraging blood to coagulate, thereby preventing the vessel wall from leaking.” However, as discussed above, and as discussed on page 6 of Akerfeldt, lines 29 and 30, and as shown in Figs. 1 and 2, Akerfeldt seals the blood vessel from both sides by contacting the vessel wall and there is nothing cited in the prior art which indicates that such an arrangement is unsatisfactory or in need of improvement.

Furthermore, nothing is cited in the prior art as addressing the problem of secondary bleeding. Akerfeldt is directed primarily to an improved tool 101 or 102 which have a mechanism to automatically bring inner and outer members together. Torgerson is primarily directed to a method of making collagen fibers. Therefore there is nothing in the prior art which provides a suggestion, motivation, or other rationale for modifying the apparently satisfactory arrangement of Akerfeldt.

It is thus respectfully submitted that these claims 1-4, 6, 8, and 10-23 are clearly patentable.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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